

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on April 15, 2008, claims 1-6 and 9-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,282,404 to Linton (hereinafter "Linton") in view of U.S. Patent No. 6,149,441 to Pellegrino et al. (hereinafter "Pellegrino"). Applicant respectfully provides the following:


U.S. Patent No. 6,282,404 to Linton issued on August 28, 2001 from an application filed on September 22, 1999. The instant application was filed by the same inventor on August 31, 2001 and claimed priority to a provisional application by the same inventor on August 31, 2000. Therefore, Linton is not prior art under any provision of 35 U.S.C. § 102, and therefore cannot be used in an obviousness rejection under 35 U.S.C. § 103(a). See M.P.E.P. 2141.01-I. Applicant therefore respectfully requests removal of all outstanding rejections and allowance of the application.

CONCLUSION

Applicant submits the claims are now in condition for allowance and respectfully requests the same. If any impediments to this application remain after consideration of the foregoing amendments and remarks, the Examiners is invited to initiate a telephone conference with the undersigned attorney of record.

DATED this 14 day of October, 2008.

Respectfully submitted,

  
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